

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Case No. 09-20143-02-JWL
)	No. 20-2313-JWL
)	
PAUL G. RAYFORD,)	
)	
Defendant.)	
)	
_____)	

MEMORANDUM AND ORDER

Defendant Paul Rayford pled guilty to one count of attempted bank robbery in violation of 18 U.S.C. § 2113(a) and one count of carrying and using a firearm during and in relation to the attempted bank robbery in violation of 18 U.S.C. § 924(c). The Tenth Circuit granted him authorization to file a successive § 2255 petition challenging his § 924(c) conviction and sentence under *United States v. Davis*, 139 S. Ct. 2319 (2019). Defendant, through counsel, filed that petition, which the court denied in September 2020. The court also denied a certificate of appealability.

Defendant has now filed a pro se motion (doc. 274) seeking leave to appeal out-of-time this court's order denying the successive petition. In his motion, defendant asserts that he was never informed by appointed counsel that the court had resolved the petition. The docket confirms that the order was sent only to the attorneys of record and the court assumes, without deciding, that defendant did not receive a copy of the order from counsel

or otherwise have notice of the court's ruling. In response, the government also assumes as much and concedes that defendant meets the requirements for submitting an appeal notice out-of-time under Federal Rule of Appellate Procedure 4(a)(6), under which the court may reopen the time for defendant to file an appeal for a period of 14 days.

IT IS THEREFORE ORDERED BY THE COURT THAT defendant's motion for leave to file an appeal out of time (doc. 274) is **granted**.

IT IS FURTHER ORDERED BY THE COURT THAT defendant shall file any notice of appeal indicating his intent to appeal from the court's September 8, 2020 memorandum and order within fourteen (14) days of the entry of this order.

IT IS FURTHER ORDERED BY THE COURT THAT the Clerk of the Court shall mail a copy of this memorandum and order directly to the defendant.

IT IS SO ORDERED.

Dated this 28th day of December, 2020, in Kansas City, Kansas.

s/ John W. Lungstrum
John W. Lungstrum
United States District Judge